

REMARKS

Upon entry of this amendment, claims 1, 3-24, and 26-41 will be pending. The Office has rejected all of the claims under 35 U.S.C. § 102(e) in view of Walker, Jenkins, and Treyz. Applicant asks the Office to reconsider this application and to allow all of the claims.

The Rejection in view of Walker

With regard to claims 1 and 24, Walker does not show nor suggest "assessing the quality-of-service received by [a] customer during [a] visit [to a service establishment]," "deciding that the quality-of-service was inadequate," and "offering [an] identified product or service to the customer at a discount before the customer leaves the service establishment." The coupons and discounts awarded to customers in Walker's system are given without regard to the service-quality experienced by the customer, and in fact they must be. Walker provides no mechanism for measuring quality-of-service, nor does he suggest that such a mechanism might even be desired. Likewise, with respect to claim 23, Walker does not show a network of computers located within a group of service establishments, where each computer is configured to "assess whether [a] customer is receiving adequate service" in the service establishment and, if not, "assist in delivering an offer to compensate the customer for the inadequate service." Accordingly, these claims and their dependents all are patentable over Walker.

With respect to claims 15 and 36, Walker says nothing about "measuring a customer's wait-time in a service lane" at a service establishment. Walker does not acquire a signal "from a device carried by the customer when the customer reaches a first checkpoint," nor does he "initiate a time-monitoring sequence upon receiving" such a signal. It follows then that Walker does not acquire another signal "from the device when the customer reaches a second checkpoint" nor "end the time-monitoring sequence upon receiving" this signal. In other words, Walker does not show a single element of either of these claims. Therefore, these claims and their dependents all are patentable over Walker.

The Rejection in view of Jenkins

Applicant does not understand how Jenkins relates at all to Applicant's invention. The system described by Jenkins has nothing to do with providing services to customers at a service establishment, let alone assessing the quality-of-service experienced by a customer or measuring the customer's waiting time in a service lane of such an establishment.

The Office itself has put forth rules requiring, among other things, that "when a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." 37 C.F.R. § 1.104(c)(2). The Office has failed to abide by this self-imposed rule in this case. At the very least, Jenkins shows inventions other than Applicant's invention, as evidenced in the patent's opening paragraph:

The invention is essentially a system and method for accessing and leaving messages at physical coordinate way points. Using hand held, user supported, or car mounted wireless computing and/or communication devices, users can either leave or access messages which become available by virtue of the physical coordinate location of a wireless network subscriber's device.

Applicant does not see how this system for "accessing and leaving messages at physical coordinate way points" is at all related to Applicant's invention, and the Office action fails to provide any guidance on the matter. The action provides no explanation whatsoever as to which parts of the Jenkins patent (or any of the other patents, for that matter) might anticipate Applicant's claims. The action states simply that the claims are "clearly anticipated by Jenkins '713, Walker et al. '240 or Treyz et al. '835." (Page 3, lines 1-2.) No further explanation is given. Without more, Applicant cannot begin to understand what it is in the Jenkins patent that the Office believes is relevant to Applicant's claims.

The Rejection in view of Treyz

Treyz also fails to show or even suggest certain aspects of Applicant's invention, including "assessing the quality-of-service received by [a] customer during [a] visit [to a service establishment]" (claims 1 and 24); "assessing whether [a] customer is receiving adequate service" (claim 23); and "measuring a customer's wait-time in a service lane" at a service establishment (claims 15 and 36). As a result, all of the claims are patentable over Treyz.

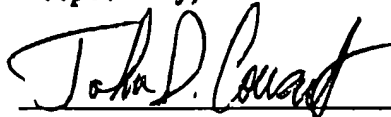
Furthermore, Treyz, even more so than Jenkins, is a very complex patent – one that is 155 pages long and includes 118 figures and 70 columns of text. The provisions of 37 C.F.R. § 1.104(c)(2) no doubt were drafted precisely for this situation – to ensure that an adequate explanation of the reasons for rejection would be forthcoming when a reference as complex as Treyz was applied against the claims. As with Jenkins, however, the Office has given no explanation of the rejection in view of Treyz. Applicant is left to guess as to which parts of the Treyz patent were relevant enough to support a rejection of the claims.

CONCLUSION

None of the references cited – Walker, Jenkins, or Treyz – shows or even suggests the invention as covered in any of Applicant's claims. All of the claims are therefore allowable over these patents.

Applicant asks the Examiner to reconsider this application and to allow all of the claims. Please apply any charges that might be due, excepting the issue fee but including fees for extensions of time, to deposit account 50-1673.

Respectfully,



John D. Cowart
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102595-02-M-0835

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X 2211-41 12/99

Article Number 09/943,708 Date Filed 8/31/01

Inventor's Name

D. Frazier

ITEM MAILED

☐ Issue Fee ☐ Maintenance Fee

☒ Amendment ☐ Application Papers

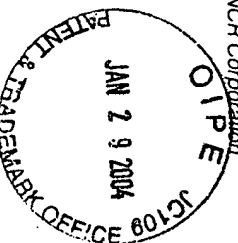
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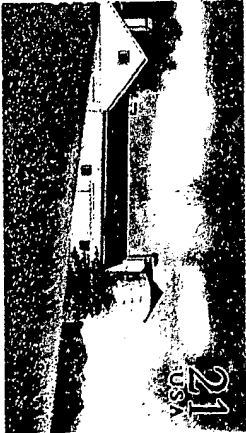
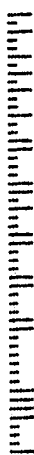
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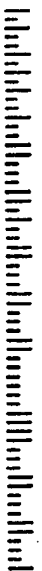
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TO	
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Serial Number	09/943,708
Inventor's Name	D. Frazier
ITEM MAILED	
<input type="checkbox"/> Issue Fee	<input type="checkbox"/> Maintenance Fee
<input checked="" type="checkbox"/> Amendment	<input type="checkbox"/> Application Papers
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102505-02-44-0835

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